

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY (TRENTON)

Caption in Compliance with D.N.J. LBR 9004-1(b)
2017-2058

Pincus Law Group, PLLC

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ATTORNEYS FOR U.S. Bank National Association,
not in its individual capacity
but solely in its capacity as Indenture Trustee of CIM
Trust 2018-NR1

In Re:

TODD SWILLINGER AND KATHLEEN Y
FONG-SWILLINGER

DEBTORS

Case No.: 20-21428

Chapter 13

Hearing Date: 12/16/2020

Judge: Christine M. Gravelle

OBJECTION TO CONFIRMATION OF THE PLAN

Movant, U.S. Bank National Association, not in its individual capacity but solely in its capacity as Indenture Trustee of CIM Trust 2018-NR1 (“Movant”), by and through its counsel, Pincus Law Group, PLLC, hereby objects to the Debtors’ Chapter 13 Plan (the “Plan”), as follows:

1. As of the bankruptcy filing date of October 7, 2020, Movant holds a secured claim against the Debtors’ property located at **99 Bayberry Drive, Somerset, NJ 08873**.
2. Movant filed a Proof of Claim (“POC”) with pre-petition arrears in the amount of \$42,932.76.

3. The Plan does not provide for payment to Movant for any pre-petition arrears. Instead the Plan proposes Debtors are seeking a loan modification. Movant is not opposed to Debtors applying for a loan modification, however Movant shall be paid its arrearages through the Plan until a loan modification is approved. As a result, the Plan must be amended to reflect payment for the amount of arrears described above and payment of ongoing post-petition payments.
4. The Plan fails to cure the delinquency pursuant to 11 U.S.C. § 1322(b)(5).
5. The Plan violates of 11 U.S.C. § 1325(a)(5)(B)(ii) by not providing for Movant to receive the full value of its claim.
6. Movant objects to the feasibility of the Plan under 11 U.S.C. § 1325(a)(6). The Plan proposed by Debtors is not feasible. Movant requests that the bankruptcy case either be converted to a Chapter 7 or be dismissed pursuant to 11 U.S.C. § 1307.

WHEREFORE, Movant respectfully requests that this Honorable Court deny confirmation of the Debtors' Chapter 13 Plan.

Respectfully submitted,

Dated: 11/10/2020

PINCUS LAW GROUP, PLLC

By: /s/ Nicole LaBletta
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FONG-SWILLINGER
DEBTORS

Case No.: 20-21428

Chapter: 13

Adv. No.: n/a

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Judge: CMG

CERTIFICATION OF SERVICE

1. I, Nicole LaBletta :
 - ☒ represent Movant in this matter.
 - ☐ am the secretary/paralegal for _____, who represents _____ in this matter.
 - ☐ am the _____ in this case and am representing myself.
2. On November 10, 2020, I sent a copy of the following pleadings and/or documents to the parties listed in the chart below.
Objection to Plan
3. I certify under penalty of perjury that the above documents were sent using the mode of service indicated.

Date: 11/10/2020

/s/ Nicole LaBletta
Signature

Name and Address of Party Served	Relationship of Party to the Case	Mode of Service
Todd Swillinger Kathleen Y. Fong-Swillinger 99 Bayberry Drive Somerset, NJ 08873	Debtors	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> Other _____ (As authorized by the Court or by rule. Cite the rule if applicable.)
Robert C. Nisenson 10 Auer Court Suite E East Brunswick, NJ 08816	Debtors' Attorney	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> Other _____ (As authorized by the Court or by rule. Cite the rule if applicable.)
Albert Russo Standing Chapter 13 Trustee CN 4853 Trenton, NJ 08650-4853	Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> Other _____ (As authorized by the Court or by rule. Cite the rule if applicable.)
U.S. Trustee US Dept of Justice Office of the US Trustee One Newark Center Ste 2100 Newark, NJ 07102	U.S. Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> Other _____ (As authorized by the Court or by rule. Cite the rule if applicable.)
		<input type="checkbox"/> Hand-delivered <input type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> Other _____ (As authorized by the Court or by rule. Cite the rule if applicable.)